



October 21, 2011

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Notice of Ex Parte Presentations in MB Docket No. 11-93
Implementation of the Commercial Advertisement Loudness Mitigation
(CALM) Act

Dear Ms. Dortch:

On October 19, 2011, Jane Mago and Valerie Schulte of the National Association of Broadcasters (NAB) met with William Lake, Chief of the Media Bureau, Media Bureau staff members Michelle Carey, Lyle Elder, Nancy Murphy and Shabnam Javid, and Eloise Gore of the Enforcement Bureau. The following day, on October 20, 2011, Art Allison of NAB and Valerie Schulte spoke with Shabnam Javid, Lyle Elder and Alison Meplokh by telephone to confirm some technical aspects of typical local station practices in transmitting audio measured by third party program providers.

During the October 19 meeting, we discussed various aspects of compliance by broadcasters with the Commercial Advertisement Loudness Mitigation (CALM) Act and the Commission's proposed rules for compliance with and enforcement of the Act. NAB emphasized, in particular, the need for television stations to rely on the CALM Act's safe harbor for all of the commercials that they transmit, including commercials that are included in network and syndicated programming, so long as

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they implement a commercially reasonable process for installing, utilizing, and maintaining the equipment and associated software needed to comply with the Advanced Television Systems Committee's (ATSC) Recommended Practice A/85 Annex J. Annex J does not require that stations themselves measure all commercials. We noted that stations can and do rely on certifications from program providers that they control the loudness level of commercials and program content in conformance with practices in ATSC A/85 (and communicate that level to stations so that it can be properly set). We urged the FCC to recognize that reliance on such certifications was appropriate and consistent with commercially reasonable practices. We further emphasized the need for flexibility for small television stations and for a blanket waiver of the effective date of the rules for stations that are "small businesses."

We agreed with the FCC staff that, if local television stations receive numerous, sufficient complaints about a particular program or program source, they will work to identify and fix the source of the problem, including working with program providers to fix any problems identified as the cause of loudness issues. In this regard, we emphasized that loudness complaints have been noticeably diminishing and expect that trend to continue as the CALM Act is implemented and complied with. We also explained that in the unlikely event that a program source might refuse to cooperate, there is not a "one size fits all" mechanism for CALM Act corrective action, but that different options will be appropriate for different situations.

During the follow-up phone conference of October 20, Mr. Allison and I described to Mr. Elder, Ms. Javid and Ms. Meplokh typical local station practices in processing and encoding network and syndicated programming ("upstream programming") and setting DialNorm loudness values, after the station is informed by the upstream provider of the loudness level of the program, as measured by the program provider in conformance with A/85. We explained that stations do not routinely measure the loudness level of all audio received from upstream providers when encoding it into an AC-3 digital stream, and why it is not practical to do so for all programs. Stations therefore do not know in real time if there is a deviation in terms of measured loudness values of a particular service (channel). In response to a question, we described how stations will perform regular, periodic quality

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control measurements of transmitted audio to ensure that upstream programming is being measured in compliance with A/85's Annex J. We explained that the frequency of these spot checks will depend to some extent on the size and resources of the station, as well as on the reliability of the third party program provider in properly complying with A/85 Annex J loudness requirements.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Valerie Schulte". The signature is fluid and cursive, with a large initial "V" and a stylized "S".

Valerie Schulte
Deputy General Counsel
Legal and Regulatory Affairs

Cc: William Lake
Michelle Carey
Nancy Murphy
Lyle Elder
Alison Neplokh
Shabnam Javid
Eloise Gore